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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,559	10/24/2005	John P. Wikswo	14506-48686	9529
24728 7590 12/19/2006 MORRIS MANNING MARTIN LLP 3343 PEACHTREE ROAD, NE 1600 ATLANTA FINANCIAL CENTER ATLANTA, GA 30326			EXAMINER LAM, ANN Y	
			ART UNIT	PAPER NUMBER
			1641	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/19/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/525,559

Applicant(s)

WIKSWO ETAL

Examiner

Ann Y. Lam

Art Unit

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 1-41 and 50-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/12/06, 9/25/06, 7/17/06.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Lack of Unity

Applicants' election of Group III, claims 42-49, in the response filed November 22, 2006, is acknowledged. Applicants' reasons for traversal of the election requirement however is not persuasive. Applicants state that Group II is also drawn to a bioreactor having a first connection and second connection and confining means and that Group II and Group III are different in that the confining means for each group has different mechanical structure respectively. Applicants argue that accordingly, Group II and Group III are not directed to patentably distinct inventions and searching both groups does not impose a serious burden on the Office. This argument is not persuasive as the groups lack a common technical feature over the prior art under PCT Rule 13.2 as indicated in the previous Office action and there would be a serious burden on the Office in searching and considering each of the limitations of the groups that are not required by the other group.

Accordingly, claims 1-41 and 50-57 are considered withdrawn as being directed to a non-elected invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 42-45 and 47-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson et al., 4,391,151.

Nelson et al. disclose the claimed invention because Nelson et al. disclose an air sampler that sucks up air through a chamber (19) and cascade filters (34 and 41) and out the device through an outlet (see col. 3, lines 48-63 and figures 1-3). The substrate forming chamber (19) is considered to be the claimed first substrate.

As to claim 43, the filters (34 and 41) are proximate and parallel to each other (see figure 1).

As to claim 45, the port to tube (26) is considered to be the claimed alternate port and tube (26) is considered to be the claimed third connection channel. Either of the filters (34 and 41) are capable of allowing seed cells to perfuse only outside the region confined by the filter in the chamber as Applicants have not recited limitations that limit the size of the seed cells.

As to claim 47, plate (15) is considered the second substrate, and it covers the first substrate (19), (col. 3, lines 30-31).

As to claim 48, the confinement region is considered to be the region above filter (34) and inside the chamber (19). The outer surface of the wall forming the chamber (19) is considered to be the claimed support member outside the confined region.

As to claim 49, the confinement region is considered to be the region above filter (34) and inside the chamber (19). The inner surface of the wall forming the chamber (19) is considered to be the claimed support member inside the confined region.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al., 4,391,151, in view of Lee et al., 6,506,345.

Nelson et al. teach the invention substantially as claimed (see above), except for the first substrate being formed of glass or a polymer.

Lee et al. however teach an air sampler made of any inert material such as glass or plastic, and that it is preferable that the material be translucent such as glass in order to provide a visual checking of the operation of the system (col. 6, lines 23-26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the first substrate in the Nelson et al. air sampler from glass or a plastic because Lee et al. teach that these materials are useful in forming an air sampler because they are inert and also because Lee et al. further teach that materials such as glass provide the benefit of visual checking of the operation of the system.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is 571-272-0822.

The examiner can normally be reached on Mon.-Fri. 10-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Ann Y. Lam', followed by a date '12/10/06'.

ANN YEN LAM
PATENT EXAMINER